

TEXAS LOTTERY COMMISSION

House Bill 1505 by Hull / Senate Bill 2402 by Middleton – TLC Sunset Bill, Not Enacted
Senate Bill 3070 by Hall (Geren) – Lottery and Charitable Bingo Program Transfers

The Legislature did not pass the Texas Lottery Commission's (TLC) Sunset bill. Instead, the Legislature abolished the agency and transferred the functions of the state lottery and bingo programs to the Texas Department of Licensing and Regulation (TDLR) through SB 3070. That bill includes many of the Sunset Commission's statutory recommendations for TLC, which will now apply to TDLR due to the transfer of functions. Although the Sunset Commission also adopted several management actions, these no longer apply.

Issue 1 — The Agency's Governing Body Is Not Adequately Engaged and Lacks Mechanisms to Ensure the Long-Term Success of the State Lottery and Charitable Bingo.

Recommendation 1.1, Not Adopted — Require the commission to establish subcommittees to improve opportunities for engagement.

Recommendation 1.2, Not Adopted — Modify statute to remove the commission's authority to delegate approval authority for bingo advisory opinions.

Recommendation 1.3, Adopted — Modify statute to require the Bingo Advisory Committee and improve its effectiveness.

Recommendation 1.4, Adopted as Modified — Require the commission to establish a Lottery Advisory Committee and also specify the qualifications for three committee members.

Recommendation 1.5, Adopted — Consolidate four of TLC's reporting requirements.

Recommendation 1.6, Not Adopted — Update the standard across-the-board requirement related to commissioner training.

Recommendation 1.7, Adopted But No Longer Applicable — Direct TLC to evaluate and address gaps in its rules. (Management action – nonstatutory)

Recommendation 1.8, Adopted But No Longer Applicable — Direct TLC to update its policies describing the separation of duties between the commission and staff. (Management action – nonstatutory)

Issue 2 — The Charitable Bingo Operations Division Needs Significant Improvement to Ensure Effective, Fair, and Efficient Bingo Regulation.

Recommendation 2.1, Not Adopted — The House Appropriations and Senate Finance committees should consider modifying TLC’s budget pattern to include an indirect administration goal.

Recommendation 2.2, Not Adopted — Modify statute to clarify TLC’s organizational hierarchy, retaining the requirement that the bingo director be employed by the commission and reports to the commission at meetings while specifying the bingo director administers the bingo division under the direction of the TLC executive director.

Recommendation 2.3, Adopted — Require CBOD to include compliance history in its audit risk assessment.

Recommendation 2.4, Adopted — Require CBOD to work with the Bingo Advisory Committee to establish appropriate inspection criteria.

Recommendation 2.5, Adopted But No Longer Applicable — Direct the agency, in consultation with the Department of Information Resources, to establish a plan prioritizing IT updates and eliminating paper-based processes in CBOD. (Management action – nonstatutory)

Recommendation 2.6, Adopted But No Longer Applicable — Direct the agency to improve data practices, including data validation and other quality controls. (Management action – nonstatutory)

Recommendation 2.7, Adopted But No Longer Applicable — Direct CBOD to revise its schedule of sanctions to better align penalties with the severity of the violation. (Management action – nonstatutory)

Recommendation 2.8, Adopted But No Longer Applicable — Direct CBOD to develop a training program for new auditors. (Management action – nonstatutory)

Recommendation 2.9, Adopted But No Longer Applicable — Direct CBOD to post all disciplinary orders on the bingo website. (Management action – nonstatutory)

Issue 3 — Charitable Bingo Licensing Needs Changes to Eliminate Unnecessary Regulatory Burdens and Unfair Advantages to Certain Regulated Businesses.

Option 1, Not Adopted — Treat all lessors as grandfathered lessors.

Option 2, Not Adopted — Convert all grandfathered lessors to regular lessors.

Recommendation 3.1, Not Adopted — Eliminate licenses for manufacturers.

Recommendation 3.2, Not Adopted — Eliminate licenses for distributors.

Issue 4 — The State Has a Continuing Need for the Texas Lottery Commission.

Recommendation 4.1, Not Adopted — Continue the Texas Lottery Commission for 12 years and remove the Sunset date of the agency's statutes.

New Recommendations Added by the Sunset Commission

Commercial Lessors, Adopted — Authorize TLC to place a commercial lessor license subject to Section 2001.152(b), Occupations Code, on administrative hold but limit the hold to a period of no more than 10 consecutive years. Specify that following that period, the licensee would retain a commercial lessor license but no longer receive privileges associated with a grandfathered license.

Clarifying Authority, Not Adopted — Require TLC to develop and adopt a formal process for resolving questions about the commission's authority and statutory ambiguity. Specifically, require TLC to have and use a formal process to resolve questions about the limits of its statutory and rulemaking authority and how to approach ambiguity in the law. This process must include, but is not limited to, requesting opinions from the Office of the Attorney General and presenting the question to the Legislature as part of the agency's strategic plan and *new Texas Lottery Commission Annual Report* contemplated in Recommendation 1.5.

Sales to Minors, Adopted as Modified — Change the statutory requirement of culpability for the sale of a lottery ticket to an individual younger than 18 years of age from "intentionally or knowingly" in Section 466.3051, Government Code, to "criminal negligence" to mirror the burden of proof for alcohol sales to a minor. Establish protections for a sales agent who scans and verifies a ticket purchaser's identification using an approved transaction scan device.

The following management action was adopted by the Sunset Commission but will not apply to TDLR:

Direct TLC and the Texas Alcoholic Beverage Commission (TABC) to enter into an MOU to establish a process that promotes compliance with provisions related to prohibiting the purchase of a lottery ticket by an individual younger than 18 years of age. The MOU should include:

- A mechanism for TABC to submit information to TLC regarding a TLC-licensed retailer's violation of law or rule related to the purchase of alcohol by a minor.

- A mechanism for TLC to submit information to TABC regarding a TABC-licensed retailer’s violation of law or rule related to the purchase of a lottery ticket by a minor.

Additionally, direct TLC to initiate an investigation into a licensed retailer based on information from TABC and report information in the *Compliance Activity Monitoring Report* regarding the number of reports received from TABC and subsequent actions taken by TLC. (Management action – nonstatutory)

Limited-Scope Review, Adopted as Modified — Require the Sunset Commission to conduct a limited-scope review of the state lottery during the 2028-29 biennium and subject the lottery to abolishment on September 1, 2029. Limit the review to the transfer of the state lottery to TDLR, the implementation and enforcement of statutory changes, whether TDLR remains the appropriate agency to administer the state lottery program, and whether TDLR has sufficient tools, programs, and procedures to ensure the integrity of the state lottery program.

Courier and Agency Leadership Evaluation, Adopted — Direct the Sunset staff to evaluate the effectiveness of agency executive leadership and, in consultation with the Lottery Commission and stakeholders, to study the potential regulation of lottery ticket courier companies in Texas. Staff will submit their results to the Sunset Advisory Commission as soon as possible in preparation for discussion at the commission’s January 15, 2025, meeting. Staff will also provide the information to the Senate Committee on State Affairs and House Committee on Licensing and Administrative Procedures.

Provisions Added by the Legislature in SB 3070

As part of the overall transfer of the state lottery and bingo programs to TDLR, the bill includes the following key components:

Lottery Couriers — Ban lottery ticket courier companies by prohibiting play or facilitating play of the lottery by telephone, internet, or mobile internet application.

Bulk Purchases — Limit the sale of lottery tickets to one individual to no more than 100 tickets in a single transaction. Unless otherwise provided by rule, prohibit TDLR from providing more than five pieces of lottery ticket printing equipment to a licensed location of a sales agent.

Security Office — Require TDLR’s executive director to maintain a security office to address any security-related matter arising from the state lottery and charitable bingo. Authorize the office to coordinate with the Financial Crimes Intelligence Center (FCIC) as necessary.

Transparency — Enhance transparency in the lottery program, such as by ensuring certain lottery documentation is retained for a specified period.

Annual State Audit — Require the State Auditor to conduct an annual comprehensive audit of TDLR's lottery program.

Bingo Equipment and Capital — Amend requirements relating to the sale and distribution of bingo equipment and the maximum amount of operating capital authorized in a bingo account.

Contract Review — Require TDLR to conduct an independent review of each existing TLC contract by December 1, 2025, and determine whether to renew, amend, or terminate the contract.

Instructional Provisions — Ensure a smooth transition of the state lottery and bingo programs to TDLR by certain dates.